IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.521 OF 2007

Afsar Badshah Khan ...Appellant

Versus

Municipal Corporation of Gr.Bombay ...Respondent

Shri H.S.Anand for the Appellant.
Ms Geeta Jogalekar for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 28, 2007.

P.C.:

1. Admit. Taken up for hearing at admission stage. By the impugned order dated 11th June, 2007 a prayer for ad-interim relief in the suit filed by the Appellant has been rejected by the trial Court.

2. From the impugned order it appears that the Court considered the question whether the Appellant was in possession of the suit premises on or before 01st January, 1995. The relief has been denied on the ground that though the present ration card of the Appellant refers to earlier ration card, the said earlier ration card is not produced to show that the earlier ration card was in respect of the suit premises. The ration card which is produced on record gives a reference to the earlier ration card. Therefore, a reasonable opportunity ought to have been granted by the trial

Court to the Appellant to produce the old ration card which he had allegedly surrendered.

3. In my view, this is a fit case where ad-interim relief should have been granted.

4. Hence, I pass the following order:

(i) The impugned order dated 11th June, 2007 is quashed and set aside.

(ii) The learned trial Judge will decide the Notice of Motion as expeditiously as possible and preferably on or before 14th August, 2007. Till the disposal of the Notice of Motion, both the parties will maintain status-quo in all respects as of today in respect of the suit structure.

(iii) All contentions of the parties in the pending Notice of Motion are expressly kept open.

JUDGE